



State of Washington
Department of Revenue

Excise Tax Advisory

Excise Tax Advisories (ETA) are interpretive statements issued by the Department of Revenue under authority of RCW 34.05.230. ETAs explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts. They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

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SALES TO OR BY INDIANS

Issued November 24, 1976

The purpose of the bulletin is to outline procedures to implement Rule 192, as revised November 12, 1976, and to provide additional details for explanation of certain provisions of that administrative rule.

1. Registration Requirements. All retailers within an Indian reservation are required to collect sales tax (and cigarette tax) on sales to non-Indians. This means that Indian retailers and Indian tribe retailers are required to be registered to collect and remit to the State the applicable State and local sales tax and the cigarette tax on sales to non-Indians, but no registration fee is required for registration of such retailers. (Such a business license fee is constitutionally impermissible under *Moe v. Salish and Kootenai Tribes*, 48 L Ed 2d 96.)

Retailers can accomplish registration by telephoning or going to any of the following offices of the State Department of Revenue:

Aberdeen 532-2840
2700 Simpson Avenue
P.O. Box 1018, 98520

Port Angeles 457-8503
1601 East Front Street
Bldg. 2, Suite A, 98362

Bellingham 676-2114
2500 Elm Street, Suite A
P.O. Box 1176, 98225

Seattle 464-6827
710 Second Avenue
901 Dexter Horton Bldg., 98104

ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.

Please direct comments to:
Department of Revenue
Legislation & Policy Division
P O Box 47467
Olympia, Washington 98504-7467
(360) 753-4161 eta@DOR.wa.gov

To inquire about the availability of receiving this document in an alternate format for the visually impaired or language other than English, please call (360)753-3217. Teletype (TTY) users please call 1-800-451-7985.

Bremerton 478-4961
Great N.W. Savings & Loan Bldg.
Lower Level, 5th & Pacific
P.O. Box 407, 98310

Ephrata 754-3771
138 W. Division
P.O. Box 1184, 98823

Everett 259-8566
2020 35th Street
P.O. Box 6, 98206

Longview 577-2015
P.O. Box 339
1418 15th St., Weyerhaeuser Credit
Union Bldg., Rm. 304, 98632

Mt. Vernon 336-2954
416 Main Street (Monday only)
P.O. Box 278, 98273

Pasco 545-2442
1600 C West Clark
P.O. Box 767, 99301

Spokane 456-3140
300 Northtown Office Bldg.
North 4407 Division, 99207

Tacoma 593-2874
Rm. 207 Professional Bldg.
705 S. 9th, 98405

Vancouver 696-6151
State Office Bldg.
904 Franklin Street
P.O. Box 787, 98660

Walla Walla 527-4306
202 Drumheller Bldg., 99362

Wenatchee 663-1651
1139 Princeton
P.O. Box 1945, 98801

Yakima 575-2783
214 Liberty Bldg.
P.O. Box 407, 98907

Olympia Headquarters 753-5540
412 General Administration Bldg.
Olympia, Washington 98504

2. Records to be Kept. Sales to Indians, when delivery is made within the Indian reservation on whose tribal rolls such Indian purchasers are duly registered, are exempt from sales tax. But to demonstrate entitlement to make such sales without collection of tax, all retailers must retain, as a part of their books and records to be available for examination by the Department of Revenue as specified by RCW 82.32.070, the following for each sale:

- a. Name of the Indian purchaser,
- b. The tribal affiliation of the purchaser,
- c. The Indian reservation to which or within which delivery was made, or within which retail services were rendered;
- d. The dollar amount of the sale, and
- e. The date of the sale.

Unless the Indian and his tribal affiliation are personally known to the retailer, the retailer must require the purchaser to present a tribal membership card issued by the tribe in which the purchaser is registered.

3. Measure of Sales Tax on Cigarette or Tobacco Products Sales. Under the holding of our Court in *Canteen Service, Inc. v. State* (83 Wn 2d 761) and *Tonasket v. State* (84 Wn 2d 164) the cigarette tax and tobacco products tax apply upon the "first taxable event" in this state. This makes a different measure for the sales tax in the case of sales by Indians to non-Indians than is the case for a taxable sale by a non-Indian.

a. Sale by an Indian to a non-Indian: Here the first taxable event is the possession by the non-Indian and therefore the cigarette or tobacco products tax due on the sale is not a part of the selling price on which sales tax is due.

b. Sale by a non-Indian: Here the taxable incidence falls on the first handler, distributor, or seller and thus the first taxable event occurs when the products are first handled, distributed, or sold within this state. Since this occurs prior to the retail sale, the cigarette or tobacco products tax is a part of the selling price, even in the case of sales which are sales tax exempt under paragraph 2, above. *Canteen Service, supra*.